

additional evidence may affect its decision. If no additional material is presented, but such evidence is available and may affect its decision, the Appeals Council shall receive such evidence or designate an Administrative Law Judge or member of the Appeals Council before whom the evidence shall be introduced. Before such additional evidence is received, notice that evidence will be received with respect to certain matters shall be mailed to the parties, unless such notice is waived, at their last known addresses, and the parties shall be given a reasonable opportunity to present evidence which is relevant and material to such matters. When the additional evidence is presented to an Administrative Law Judge or a member of the Appeals Council, a transcript or a condensed statement of such evidence shall be made available to any party upon request, upon payment of the cost, or if such cost is not readily determinable, the estimated amount thereof, unless, for good cause shown, such payment is waived.

§ 410.659 Decision of Appeals Council.

The decision of the Appeals Council, when a case has been certified to it by an Administrative Law Judge along with his recommended decision, shall be made in accordance with the provisions of § 410.665.

§ 410.660 Right to request review of Administrative Law Judge's decision or dismissal.

If an Administrative Law Judge has made a decision, as provided in § 410.654, or dismissed a request for hearing, as provided in §§ 410.648 through 410.650, any party thereto may request the Appeals Council to review such decision or dismissal.

§ 410.661 Time and place of filing request.

The request for review shall be made in writing and filed with an office of the Social Security Administration, or with a presiding officer, or the Appeals Council. Such request shall be accompanied by whatever documents or other evidence the party desires the Appeals Council to consider in its review. The request for review must be filed within 60 days after the date of receipt of no-

tice of the presiding officer's decision or dismissal, unless the time is extended as provided in § 410.669. For purposes of this section, the date of receipt of notice of the presiding officer's decision or dismissal shall be presumed to be 5 days after the date of such notice, unless there is a reasonable showing to the contrary.

[41 FR 54753, Dec. 15, 1976]

§ 410.662 Action by Appeals Council on review.

The Appeals Council may dismiss (see § 410.667) or, in its discretion, deny or grant a party's request for review of a presiding officer's decision, or may, on its own motion, within 60 days after the date of the notice of such decision, reopen such decision for review or for the purpose of dismissing the party's request for hearing for any reason for which it could have been dismissed by the presiding officer (see §§ 410.648 through 410.650). Notice of the action by the Appeals Council shall be mailed to the party at his last known address.

[41 FR 54753, Dec. 15, 1976]

§ 410.663 Procedure before Appeals Council on review.

(a) *Availability of documents or other written statements.* Whenever the Appeals Council determines to review a presiding officer's decision (except when the case is remanded to a presiding officer in accordance with § 410.665), the Appeals Council shall make available to any party upon request, copies or a statement of the contents of the documents or other written evidence upon which the presiding officer's decision was based, and a copy of the transcript of oral evidence, if any, or a condensed statement thereof, upon payment of the cost, or if such cost is not readily determinable, the estimated amount thereof, unless for good cause shown, such payment is waived.

(b) *Filing briefs or other written statements.* The parties shall be given, upon request, a reasonable opportunity to file briefs or other written statements of allegations as to fact and law. Copies of each brief or other written statements, where there is more than one

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party, shall be filed in sufficient number that they may be made available to any party requesting a copy and to any other party designated by the Appeals Council.

(c) *Appearance to present oral argument.* Any party may request an appearance before the Appeals Council for the purpose of presenting oral argument. Such request shall be granted where the Appeals Council determines that a significant question of law or policy is presented or where the Appeals Council is of the opinion that such oral argument would be beneficial in rendering a proper decision in the case. Where the request for appearance is granted, the party will be notified of the time and place for the appearance at least 10 days prior to the date of the scheduled appearance.

[41 FR 53790, Dec. 9, 1976]

§410.664 Evidence admissible on review.

(a) *Admissibility of additional evidence.* Evidence in addition to that introduced at the hearing before the presiding officer, or documents before the presiding officer where such hearing was waived (see §410.647), may not be admitted except where it appears to the Appeals Council that such evidence is relevant and material to an issue before it and thus may affect its decision.

(b) *Receipt of evidence by Presiding Officer.* Where the Appeals Council determines that additional evidence is needed for a sound decision, it will remand the case to a presiding officer for receipt of the evidence, further proceedings, and a new decision, except where the Appeals Council can obtain the evidence more expeditiously and the rights of the claimant will not be adversely affected.

(c) *Receipt of evidence by Appeals Council.* Where the Appeals Council obtains the evidence itself, before such evidence is admitted into the record, notice that evidence will be received with respect to certain issues shall be mailed to the parties, unless such notice is waived, at their last known addresses, and the parties shall be given a reasonable opportunity to comment thereon and to present evidence which is relevant and material to such issues.

(d) *Copies of evidence.* When additional evidence is presented to a presiding officer or to the Appeals Council, a transcript or a condensed statement of such evidence shall be made available to any party upon request, upon payment of the cost, or if such cost is not readily determinable, the estimated amount thereof, unless, for good cause shown, such payment is waived.

[41 FR 53790, Dec. 9, 1976]

§410.665 Decision by Appeals Council or remanding of case.

(a) *General.* If a case is certified to the Appeals Council by an Administrative Law Judge (see §410.654), the Appeals Council shall make a decision. If the Appeals Council decides to review an Administrative Law Judge's decision as provided in §410.662, the Appeals Council may, upon such review, affirm, modify, or reverse the decision of the Administrative Law Judge, or vacate such decision and remand the case to an Administrative Law Judge either for rehearing and the issuance of a decision thereon or to take further testimony in the case and return it to the Appeals Council with a recommended decision for decision by the Appeals Council. Where a case has been remanded by a court for further consideration, the Appeals Council may proceed then to make the decision or it may in turn remand the case to an Administrative Law Judge with directions to return the case upon completion of the necessary action to the Appeals Council with a recommended decision for decision by the Appeals Council.

(b) *Case remanded to an Administrative Law Judge.* Where a case is remanded to an Administrative Law Judge, he shall initiate such additional proceedings and take such other action (under §§410.632 through 410.655) as is directed by the Appeals Council in its order of remand. The Administrative Law Judge may take any additional action not inconsistent with the order of remand. Upon completion of all action called for by the order of remand and any other action initiated by the Administrative Law Judge, the Administrative Law Judge shall promptly (1)